

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

RICHARD MATHIS, *et al.*,

Plaintiffs,

v.

COUNTY OF LYON, *et al.*,

Defendants.

Case No. 2:07-cv-00628-APG-GWF

**ORDER REGARDING DEFENDANT  
LYON COUNTY'S MOTION FOR  
STAY PENDING APPEAL**

(ECF No. 489)

Defendant Lyon County moved for a stay of the plaintiffs' efforts to execute and collect upon their judgment without the need to post a supersedeas bond. ECF No. 489.

"If an appeal is taken, the appellant may obtain a stay by supersedeas bond . . . ." Fed. R. Civ. P. 62(d). "The posting of a bond protects the prevailing plaintiff from the risk of a later uncollectible judgment and compensates him for delay in the entry of the final judgment." *NLRB v. Westphal*, 859 F.2d 818, 819 (9th Cir. 1988). In appropriate circumstances, a "district court may permit security other than a bond." *Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1367 (9th Cir. 1990) (citation omitted). "Courts may waive a supersedeas bond (1) where defendant's ability to pay is so plain that the cost of the bond would be a waste of money; [or] (2) where the requirement would put the defendant's other creditors in undue jeopardy." *People of the State of California v. Kinder Morgan Energy Partners, L.P.*, No. 07CV1883-MMA (WVG), 2014 WL 12577031, at \*7-8 (S.D. Cal. Jan. 3, 2014) (quotation omitted).

The County contends that it is "a secure municipal entity" that has "financial security." ECF No. 489 at 8-9. However, even when the appellant is a governmental entity, "it is appropriate for the court to require 'adequate documentation' to support the claim of ability to pay." *Ford v. Bender*, 903 F. Supp. 2d 90, 106 (D. Mass. 2012), *rev'd on other grounds*, 768 F.3d 15 (1st Cir. 2014). *See also Kinder Morgan*, 2014 WL 12577031, at \*7-8 ("Other courts have waived the bond requirement where the state or subdivision has submitted evidence, such as declarations or affidavits, guaranteeing payment of a judgment.").

1 The County has not provided adequate documentation of its ability to pay the judgment.  
2 It refers to the declaration of Wayne Carlson submitted by defendant Glover as proof of the  
3 County's insurance. ECF No. 489 at 9 (citing to ECF No. 473 at 8-9). However, that declaration  
4 merely confirms that the Nevada Public Agency Insurance Pool (NPAIP) "will cover the entirety  
5 of the judgment entered against Glover in this case." ECF No. 473 at 8. It does not explicitly  
6 state that the NPAIP will cover the entirety of the judgment entered against the County. I will  
7 allow the County to supplement its motion with adequate documentation guaranteeing payment of  
8 the judgment.

9 IT IS THEREFORE ORDERED that defendant Lyon County may supplement its motion  
10 for stay within 14 days of entry of this Order, as discussed above. If it fails to do so, I will deny  
11 the motion.

12 DATED this 14th day of July, 2017.



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ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE